

TOWN OF WAREHAM
ZONING BOARD OF APPEALS

ZBA
1p-21

APPLICATION FOR A PUBLIC HEARING FOR A VARIANCE/SPECIAL PERMIT

Certain uses are allowed in several zoning districts only by means of a Variance and/or Special Permit from the Zoning Board of Appeals. Those uses are indicated in the Wareham Zoning By-Laws. To apply for a Variance/Special Permit from the Zoning Board of Appeals, please do the following:

- o Complete this form.
- o Complete information packets. (Directions attached)
- o Submit application form and packet to Town Clerk for signature.
- o Submit application form and packet to Town Collector for signature.
- o Submit completed form, packets, and appropriate fees** to the Zoning Board of Appeals secretary.

Variance for
creation of under sized lot
Article 6
Table 624

**Permits may be issued only after a public hearing. There is a filing fee of \$300.00 per lot, per application for all non-conforming residential lots, whether built upon or not. There is a filing fee of \$750.00 per lot, per application for all commercial applications. In the case of a multi-family development, the fee is \$300.00 plus an additional \$50.00 for every unit over two (2). Please make check payable to the Town of Wareham.

**A check to cover two (2) legal advertisements for the public hearing should be made payable to Wareham Week in the amount of \$100.00.

**The applicant will also be responsible for the costs of sending out abutter notifications by Certified Mail. The cost is \$6.90 per certified letter to each abutter. Please see Zoning Board secretary for cost of mailings. Please make check payable to the Town of Wareham.

I hereby apply for a Variance/Special Permit for a use to be made of the following described place:

STREET & NUMBER: 124 Main St., Wareham LOT: 1118-BB MAP: 47
 ZONING DISTRICT: Industrial
 USE REQUESTED: Museum
 OWNER OF LAND & BUILDING: Southcoast Hospitals Group, Inc. TEL.# 508-938-1000
 ADDRESS OF OWNER: _____
 PERSON(S) WHO WILL UTILIZE PERMIT: Wareham Historical Society (501c-3)
 ADDRESS: P.O. Box 211, Wareham MA 02571
 DATE: 3/2/21 SIGNATURE: Angela M. Dunham, President
 Wareham Historical Society

Town Clerk: _____ Date: _____
 Tax Collector: Heath King Date: 3/15/21
 Planning/Zoning Dept.: Jonna Rapron Date: 3/15/2021
 Application fee paid: waived Check #: _____ Receipt: _____
 Advertising fee paid: 100.00 Check # 1612 Receipt: _____
 Abutters fee paid: 80.82 Check # 1613 Receipt: _____

WAREHAM TOWN CLERK
2021 MAR 15 PM 4:39

TOWN OF WAREHAM

APPLICANT/CONTRACTOR/REPRESENTATIVE INFORMATION SHEET

Check One: Variance Special Permit Site Plan Appeal

Date stamped in: _____ Date decision is due _____

Applicant's Name: Angela M. Dunham / Wareham Historical Society

Applicant's Address: 40 Oak St, Wareham / P.O. Box 211, Wareham, MA

Telephone Number: 508-295-8578

Cell Phone Number: 508-317-0813

Email Address: ron2angela.dunham@verizon.net

Address of Property/Project: 124 Main St, Wareham, MA 02571

Landowner's Name: Southcoast Hospitals Group, Inc.

Owner's Address: 174 Union St, New Bedford, MA 02740

Telephone Number: 508-938-1000

Contact Person: Chris Saunders, Atty Telephone Number: 508-938-1000

Map 47 Lot 1118-BB Zone Industrial

Date Approved _____ Date Denied _____

Comments: _____

DECAS, MURRAY & DECAS

132 North Main Street, Middleboro, MA 02346

George C. Decas (Retired)
Daniel F. Murray, Esquire
William C. Decas, Esquire

Phone: (508) 947-4433
Fax: (508) 947-7147
decas.murray.decas@verizon.net

Attorneys-at-Law
Reply to: P.O. Box 201
Middleboro MA 02346

May 28, 2020

Angela Dunham, President
Wareham Historical Society
P.O. Box 211
Wareham, MA 02571

RE: Captain John Kendrick House, 124 Main Street, Wareham, MA

Dear Angela:

I have completed the title examination of the above property and the following is my report.

The property is now owned by Southcoast Health System, Inc., a successor of Tobey Hospital.

Title was searched back to 1939 when Tobey Hospital acquired the land from the Trustee under the Will of Alice Tobey Jones. Title is clear and marketable subject to the following:

1. Access easements were granted along the two sides of the property for the benefit of the property owner of the medical building and the land (parking lot) to the rear of the Captain Kendrick House. The one on the northwest side next to the medical office is twelve feet wide and the one on the other side next to the former lumberyard is ten feet wide. Since the owner of the Captain Kendrick House still owns the land over which these easements are located such owner can also use the roads over its property. See Description of Captain Kendrick House lot accompanying this letter for Registry of Deeds details on these easements.
2. A possible utility easement to construct gas and electric lines to New Bedford Gas and Edison Light Company (which would include all of its successor corporations). Because the easement does not specify the location of this it could be anywhere on Tobey Hospital's property as of July 20, 1971. This is a pretty standard utility easement that probably is located elsewhere on Tobey land since a physical view of the Captain Kendrick House does not reveal any such utility line. Theoretically however, it could (but not likely) be constructed in the future.
3. A Massachusetts DEP Order of Conditions under the Wetlands Protection Act covering some portion of the Captain Kendrick House and the parking lot to its rear. This was a

permit to allow some kind of construction on the site. The Order is designed to protect the groundwater supply and for storm damage prevention. The Order was issued on October 24, 2019. I do not know if the work has been done yet but a statute requires the land owner to secure a Certificate of Compliance showing that the work was done in accordance with the Order and that the Certificate be recorded at the Plymouth County Registry of Deeds. As of May 12, 2020 this had not been done. Before you close on this with Tobey you should have Tobey obtain and record such a Certificate at least as to the Kendrick portion of the site. I am obtaining additional information concerning the Order and will forward the same to you when received.

4. Standard exceptions, so-called, to the title search. These are matters not disclosed by a title search such as any defect an accurate survey of the premises might disclose, zoning laws and other pertinent use regulations, forgeries, rights acquired by adverse possession, prescriptive easements, etc.

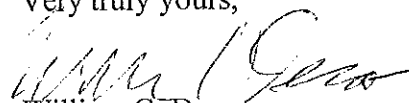
Enclosed you will find Description of Captain Kendrick House lot which is a legal description of the property and which should be contained in the deed the Historical Society would hopefully receive from Tobey.

As you will see from this description the property is about 95 feet wide and 108 feet deep. Since the easement on the sides total 22 feet in width the building hopefully is located within a 73 feet wide area. If you are not sure of this, a survey is recommended.

By the way, the record shows that Tobey Hospital granted a 30-year lease to the Wareham Historical Society, Inc. on January 4, 1974 expiring on January 4, 2004. No deeds, extensions or other grants were made to the Society.

If you have any questions or need any further explanation regarding this report, please let me know.

Very truly yours,



William C. Decas

WCD/s
20-128
Enclosure

Description of Captain Kendrick House lot

The parcel of land on the southwesterly side of Main Street in Wareham, Plymouth County, Massachusetts bounded and described as follows:

Beginning at a point in the northeast corner of the Thompson Homestead lot in the westerly side of Main Street said lot now or formerly of Narrows Village Corporation as shown on "Plan of Land prepared for Davis T. Gallison, Jr., Main Street, Wareham, Mass. Scale 1/8" = 1' - 0", June 10, 1965 Walter E. Rowley & Associates, West Wareham, Mass." duly recorded with Plymouth Deeds, Plan 194 of 1966;

Thence South 55° 20' 50" West in line of land now or formerly of Narrows Village Corporation 108 feet more or less to a point in the northeast corner of the lot conveyed by deed of Tobey Hospital to Andrew J. Dadagian recorded with Plymouth County Registry of Deeds in Book 5653, Page 424;

Thence running Southeasterly 95 feet more or less by said Dadagian to land now or formerly of Tobey Hospital known as the lumberyard lot;

Thence northeasterly by said lumberyard lot 108 feet, more or less, to Main Street;

Thence Northeasterly by said Main Street 95 feet, more or less, to the point of beginning.

The herein described premises are conveyed subject to the easement over a twelve foot strip of land described in the deed of Tobey Hospital to Narrows Village Corporation dated March 18, 1966 and recorded in said Registry in Book 3280, Page 483 and subject to an easement over a strip of land 10 feet in width described in the deed of Tobey Hospital to Andrew Dadagian dated May 25, 1984 and recorded in said Registry in Book 5653, Page 424.

The premises herein conveyed are a portion of the Second Parcel described in the deed to Tobey Hospital dated May 9, 1939 and recorded in said Registry in Book 1764, Page 494.

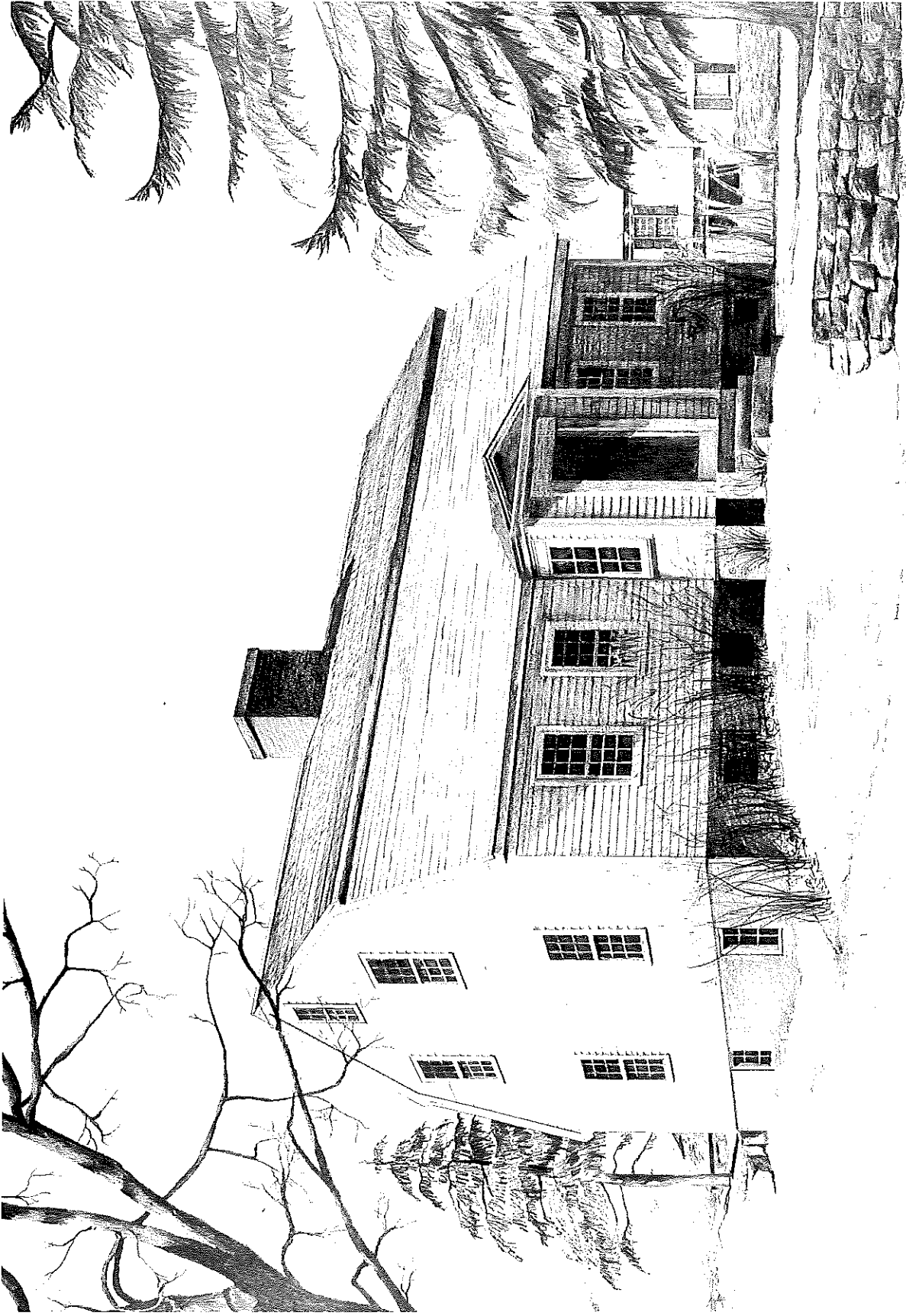
Tobey Hospital is now named Southcoast Health System, Inc..

The address of the premises is 124 Main Street, Wareham, MA 02571.

Captain John Kendrick Maritime Museum

This house was purchased from David Nye on November 27, 1778 by Captain John Kendrick, a sea captain of great accomplishment. In 1787, Kendrick sailed on an exploratory voyage from which he never returned. In 1805, the house was sold to Asa and Hallet Swift. In the 1820's, the house was occupied by Sylvanus and Hannah Bourne. Through efforts of the Wareham Historical Society, with help from others, it was saved from destruction in the early 1970's. It is now known as the Captain John Kendrick Maritime Museum and is open to the public for tours during summer months.

Narrative by Pamela Rainey Enos, who used her artistic talent to document and sketch six Wareham historic homes for a fundraiser collection generously donated to the Wareham Historical Society.



CAPT. JOHN KENDRICK MUSEUM
BY PAMELA RAINY ENUS 1988

The Capt. John Kendrick Maritime Museum



Overlooking the Narrows Historic District of Wareham, is the Capt. John Kendrick House and Maritime Museum. The home was purchased by Capt. Kendrick, along with the wharf across the street, in 1778 from David Nye. The home is a gambrel roofed Cape style house with a center chimney and a “good morning” stairway, which was built around 1745. The original paneling and other architectural features are intact, and the Wareham Historical Society has maintained the early wallpapers and furnishings from the 18th and 19th centuries. Inside are many items honoring the maritime history of Wareham. Following the residency of the Kendricks, the home retained its importance in the town, having the post office within it, as well as being the home of other important Wareham residents, including the famed maritime artist, Charles Sidney Raleigh. The Wareham Historical Society began operating this building as a Maritime Museum in 1976.

1st & 2nd
Page only

Mail
FARLAND CORP.
401 COUNTY ST.
NEW BEDFORD, MA.
02740



2019 00091995
Bk: 51862 Pg: 188 Page: 1 of 17
Recorded: 10/29/2019 01:17 PM
ATTEST: John R. Buckley, Jr. Register
Plymouth County Registry of Deeds



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 - Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
SE76-2497
MassDEP File #

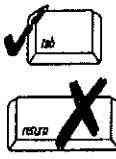
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City/Town

Wareham Wetland Protective Bylaw, Div VI

A. General Information

Please note:
this form has
been modified
with added
space to
accommodate
the Registry
of Deeds
Requirements

Important:
When filling
out forms on
the
computer,
use only the
tab key to
move your
cursor - do
not use the
return key.



1. From: Wareham
Conservation Commission

2. This issuance is for (check one):
a. Order of Conditions b. Amended Order of Conditions

3. To: Applicant:
Helio a. First Name Rosa b. Last Name
Southcoast Hospitals Group, Inc. c. Organization
174 Union Street d. Mailing Address
New Bedford e. City/Town MA f. State 02740 g. Zip Code

4. Property Owner (if different from applicant):

a. First Wareham b. Last Name Conservation
c. Org Commission
d. Ma Farland Corp.
e. Cit Southcoast g. Zip Code

5. Project
a. S 431 am
c. A 47 own
La & 1118B Lot Number
e. Longitude n s d m s

* No copy
extra needed?
Wareham
Conservation
Commission
Farland Corp.
Southcoast



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
 Plymouth

a. County	b. Certificate Number (if registered land)
6311	124
c. Book	d. Page

7. Dates: August 2, 2018 October 16, 2019 October 24, 2019
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

<u>Site Plan - 43 High Street, Wareham, MA</u>	
a. Plan Title	
<u>Farland Corp.</u>	<u>Christian Albert Farland</u>
b. Prepared By	c. Signed and Stamped by
<u>September 20 2019</u>	<u>1"=30'</u>
d. Final Revision Date	e. Scale
f. Additional Plan or Document Title	
g. Date	

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- | | | |
|---|--|--|
| a. <input type="checkbox"/> Public Water Supply | b. <input type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution |
| d. <input type="checkbox"/> Private Water Supply | e. <input type="checkbox"/> Fisheries | f. <input type="checkbox"/> Protection of Wildlife Habitat |
| g. <input checked="" type="checkbox"/> Groundwater Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> Flood Control |

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



Massachusetts Department of Environmental Protection
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B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) _____ a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet _____	b. linear feet _____	c. linear feet _____	d. linear feet _____
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet _____	b. square feet _____	c. square feet _____	d. square feet _____
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet _____ e. c/y dredged _____	b. square feet _____ f. c/y dredged _____	c. square feet _____	d. square feet _____
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet _____	b. square feet _____	c. square feet _____	d. square feet _____
Cubic Feet Flood Storage	e. cubic feet _____	f. cubic feet _____	g. cubic feet _____	h. cubic feet _____
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet _____	b. square feet _____		
Cubic Feet Flood Storage	c. cubic feet _____	d. cubic feet _____	e. cubic feet _____	f. cubic feet _____
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet _____	b. total sq. feet _____		
Sq ft within 100 ft	c. square feet _____	d. square feet _____	e. square feet _____	f. square feet _____
Sq ft between 100-200 ft	g. square feet _____	h. square feet _____	i. square feet _____	j. square feet _____



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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. ^{cu yd} nourishment	d. ^{cu yd} nourishment
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. ^{cu yd} nourishment	d. ^{cu yd} nourishment
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	24,225	24,225		
	a. square feet	b. square feet		



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B. Findings (cont.)

* #22. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

22. Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

23. Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on _____ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



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C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number SE76-2497 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) is subject to the Massachusetts Stormwater Standards
 - (2) is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
 - i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
SE76-2497
MassDEP File #

eDEP Transaction #
Wareham
City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (If you need more space for additional conditions, please attach a text document):

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
2. The Wareham hereby finds (check one that applies):
 Conservation Commission

- a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw _____ 2. Citation _____

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

Wareham Wetland Protective Bylaw, Division VI
 1. Municipal Ordinance or Bylaw _____ 2. Citation _____

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):



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City/Town

G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for: Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

DEP File Number:

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. Request Information

1. Location of Project

a. Street Address _____ b. City/Town, Zip _____
c. Check number _____ d. Fee amount _____

2. Person or party making request (if appropriate, name the citizen group's representative):

Name _____
Mailing Address _____
City/Town _____ State _____ Zip Code _____
Phone Number _____ Fax Number (if applicable) _____

3. Applicant (as shown on Determination of Applicability (Form 2), Order of Resource Area Delineation (Form 4B), Order of Conditions (Form 5), Restoration Order of Conditions (Form 5A), or Notice of Non-Significance (Form 6)):

Name _____
Mailing Address _____
City/Town _____ State _____ Zip Code _____
Phone Number _____ Fax Number (if applicable) _____

4. DEP File Number:

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



B. Instructions

1. When the Departmental action request is for (check one):

- Superseding Order of Conditions – Fee: \$120.00 (single family house projects) or \$245 (all other projects)
- Superseding Determination of Applicability – Fee: \$120
- Superseding Order of Resource Area Delineation – Fee: \$120



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

DEP File Number:

**Request for Departmental Action Fee
Transmittal Form**

Provided by DEP

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

B. Instructions (cont.)


Send this form and check or money order, payable to the *Commonwealth of Massachusetts*, to:

Department of Environmental Protection
Box 4062
Boston, MA 02211

2. On a separate sheet attached to this form, state clearly and concisely the objections to the Determination or Order which is being appealed. To the extent that the Determination or Order is based on a municipal bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.
3. Send a *copy* of this form and a *copy* of the check or money order with the Request for a Superseding Determination or Order by certified mail or hand delivery to the appropriate DEP Regional Office (see <http://www.mass.gov/eea/agencies/massdep/about/contacts/>).
4. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

SPECIAL CONDITIONS

1. The Wareham Conservation Commission is to be notified in writing not less than three (3) working days prior to the start of construction. At the time of notification, all pre-construction conditions shall have been complied with, including General Conditions 8 & 9.
2. Members, agents, and representatives of the Wareham Conservation Commission and/or the D.E.P. shall have the right to enter and inspect the property to insure compliance with the Conditions contained in this Order, and may require the submittal of any data necessary for such evaluation.
3. It is the responsibility of the applicant to see that construction personnel are aware of and adhere to all Conditions contained in this Order. A copy of this Order of Conditions shall be kept available on-site during all phases of the project.
4. Construction may proceed according to the plans submitted to the Commission and D.E.P. For any proposed change to the plans submitted, the applicant shall file a new Notice of Intent, or shall inquire, in writing from the Commission, as to whether the change is significant enough to warrant a new Notice. **Failure to construct the project according to the approved site plan may result in the issuance of an Enforcement Order and/or fines of up to \$300.00/day that the unauthorized deviations continue to exist. This shall be a continuing condition.**
5. Prior to the commencement of any earth moving activity, a haybale barrier shall be placed between the limits of the work and the B.V.W. The haybales shall be firmly anchored with stakes end-to-end. The haybales shall be inspected daily and those showing signs of deterioration shall be replaced immediately. The haybale barrier shall remain in proper functioning condition until all disturbed areas have been stabilized.
6. Any construction in the flood plain shall conform to 780 CMR Section 2102.0, requirements for flood resistant construction.
7. All final earth grading shall be permanently stabilized by the application of loam and seed or sod, except for the designated replication area and any designed paved area (driveway, sidewalk).
8. All debris, fill, and excavated material, shall be stockpiled far enough away from designated resource areas, and at a location to prevent sediment from surface runoff entering wetlands. At no time shall any debris or other material be stockpiled, buried, or disposed of within wetland resource areas, other than that fill which is allowed by this Order and is shown on the above referenced plans.

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9. **Upon completion of the project, or at the expiration date of the Order of Conditions, the applicant shall either submit a Request for a Certificate of Compliance accompanied by an "As-Built" Plan prepared by a professional engineer or land surveyor registered in the Commonwealth of Massachusetts showing deviations from the original submitted plans, if any, and showing the site has been developed according to the requirements of the Order of Conditions, or a request for an extension to the Order. Failure to comply with this condition may result in the issuance of fines and/or other legal actions.**
 10. This Order shall apply to any successor in control or successor in interest of the property described in the Notice of Intent and accompanying plans.
 11. If the proposed project involves construction of a replacement area, the replacement area shall meet or exceed those General performance standards outlines in sections 10.55 (4) (b) 1-7 of the Wetlands Protection Act Regulations. Should the replacement area fail to meet any of these standards, the Commission may require those measures necessary to achieve compliance.
 12. **The applicant shall contact the Conservation Administrator to inspect the installed haybale/silt fence barrier. Both haybales and silt fence shall be used for this project. This is to be done prior to the commencement of the project, which includes tree cutting or the removal of vegetation.**
 13. **The applicant shall arrange a preconstruction meeting to include the project contractor, the Conservation Administrator, and the project Engineer, to discuss the schedule and details of the project. This shall be done prior to the commencement of the project, which includes tree cutting or the removal of vegetation.**
 14. **The name and phone number of the contact person for the project contractor shall be submitted to the Conservation Office. This shall be done prior to the commencement of the project.**
 15. **Only organic slow release nitrogen fertilizer shall be used at the site, in accordance with the manufacturer's specifications. This shall be a continuing condition.**
 16. **Silt sacks shall be installed in adjacent catch basins prior to construction.**
 17. **The stormwater drainage structures approved as part of this project shall be maintained in accordance with the "Long Term Maintenance and Operation Plan", dated June 29, 2018, submitted as part of the Notice of Intent application for the project. Copies of the inspection reports required as part of the maintenance plan shall be submitted to the Conservation Office. This shall be a continuing condition.**

18. The Maintenance of the site shall also be conducted in accordance with the "Long Term Pollution Prevention Plan", dated June 29, 2018, submitted as part of the Notice of Intent for the project. This shall be a continuing condition.

TOWN OF WAREHAM						
ABUTTERS LIST						
MAP 47 LOT 1118BB						
MAP/LOT	OWNER	CO-OWNER	MAILING ADDRESS	TOWN	ST	ZIP
47-1118	TOBEY HOSPITAL INC	C/O ELAINE MEREDITH	200 MILL ROAD, SUITE 230	FAIRHAVEN	MA	02719
47-1120	AXIS TOBEY MEDICAL LLC		6 PRINCE SNOW CIRCLE	MATTAPOISETT	MA	02739
47-1051	SOUTHCOAST HOSPITALS	GROUP INC	101 PAGE ST	NEW BEDFORD	MA	02740
47-1050	SOUTHCOAST HOSPITALS	GROUP INC	101 PAGE ST	NEW BEDFORD	MA	02740
47-1052	HOLLYWOOD EAST REALTY LLC		72R MAIN ST APT 2	WAREHAM	MA	02571
47-1049	BUCKMINSTER ROLLIN GARRY JR	REBHAN-BUCKMINSTER JAIME	9 CEDAR ST	WAREHAM	MA	02571
47-1046	SOUTHCOAST HOSPITALS GROUP	INC	101 PAGE ST	NEW BEDFORD	MA	02740
47-1123/D	COLLINS DANA A		5 CEDAR ST	WAREHAM	MA	02571
47-1121	HOLLYWOOD EAST REALTY LLC		72R MAIN ST	WAREHAM	MA	02571
47-1122/B	HOLLYWOOD EAST REALTY LLC		72 MAIN ST	WAREHAM	MA	02571
47-1127	TOWN OF WAREHAM		54 MARION RD	WAREHAM	MA	02571
47-1122/A	POYANT ANGELA E	POYANT CLAUDIN E	58 MAIN ST	WAREHAM	MA	02571
47-1124	WARREN QOZB LLC		18 CHURCH ST	CARVER	MA	02330

1270
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